

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

SHELTON BARNELL JAMES

PLAINTIFF

v.

CIVIL NO. 1:19cv265-HSO-MTP

SOCIAL SECURITY ADMIN.

DEFENDANT

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION [14] AND DISMISSING PLAINTIFF'S COMPLAINT
[1] WITHOUT PREJUDICE**

BEFORE THE COURT is the Report and Recommendation [14] of United States Magistrate Judge Michael T. Parker. After due consideration of the Report and Recommendation, the record as a whole, and relevant legal authority, the Court finds that the Magistrate Judge's Report and Recommendation should be adopted as the opinion of the Court, and that Plaintiff's Complaint should be dismissed without prejudice.

I. BACKGROUND

On May 6, 2019, pro se Plaintiff Shelton Barnell James ("Plaintiff") filed a Complaint [1] in this Court asserting that the decision of Defendant Social Security Administration ("Defendant") to deny Plaintiff's application for Social Security disability insurance benefits was in error. Compl. [1] at 4. Defendant filed an Answer [10] on March 17, 2020, and a copy of the Administrative Record [11]. Plaintiff was served with a copy of the Answer. Answer [10] at 3. Plaintiff was

ordered to file and serve his brief within 30 days, or on or before April 16, 2020. *See* Scheduling Order [12] at 1. Plaintiff failed to do so, and to date he has filed nothing further in this case.

On June 12, 2020, the Court entered an Order to Show Cause directing Plaintiff to show cause in writing why the case should not be dismissed for Plaintiff's failure to timely file his brief in accordance with the Court's Order [12], and further ordering Plaintiff to file his brief by June 26, 2020. Order to Show Cause [13]. This Order was mailed to Plaintiff at his address of record listed on the docket sheet. Plaintiff failed to respond to the Court's Order and did not file a brief by June 26, 2020. Indeed, to date Plaintiff has never filed a brief.

On July 6, 2020, the Magistrate Judge entered a Report and Recommendation [14], recommending that this case be dismissed without prejudice for failure to prosecute and for failure to comply with the Court's orders. R. & R. [14] at 1-3. The Report and Recommendation was mailed to Plaintiff at his address of record. Plaintiff had 14 days to file Objections to the Report and Recommendation, giving him until July 23, 2020, to do so. R. & R. [14] at 2; *see* Fed. R. Civ. P. 6(b) (granting a party three additional days to act when service is made by mail). Plaintiff failed to respond within this timeframe, and to date he has filed no formal objection to the Report and Recommendation.

II. DISCUSSION

Neither party has filed any objection to the Report and Recommendation. Where no party has objected to a magistrate judge's proposed findings of fact and

recommendation, the Court need not conduct a de novo review of it. 28 U.S.C. § 636(b)(1) (“a judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made”). In such cases, the Court applies the “clearly erroneous, abuse of discretion and contrary to law” standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court concludes that the Magistrate Judge’s findings are not clearly erroneous, nor are they an abuse of discretion or contrary to law. The Court will adopt the Magistrate Judge’s Report and Recommendation [14] as the opinion of this Court.

III. CONCLUSION

After a thorough review and consideration of United States Magistrate Judge Michael T. Parker’s Report and Recommendation [14], the record as a whole, and relevant legal authority, the Court concludes that the Magistrate Judge’s Report and Recommendation [14] should be adopted as the finding of this Court, and that Plaintiff’s Complaint [1] should be dismissed without prejudice.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, United States Magistrate Judge Michael T. Parker’s Report and Recommendation [14], entered in this case on July 6, 2020, is **ADOPTED** as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Plaintiff’s Complaint [1] is **DISMISSED WITHOUT PREJUDICE**. A separate judgment

will be entered in accordance with this Order, as required by Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED AND ADJUDGED, this the 24th day of July, 2020.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE